

ALTON AND VaLOIS HADLOCK

IBLA 77-296, 77-303

Decided October 31, 1977

Appeals from decisions of the Idaho State Office, Bureau of Land Management, rejecting Desert Land Entry Applications I-12811 and 12812.

Affirmed.

1. Desert Land Entry: Generally--Desert Land Entry: Applicants

Excepting in the State of Nevada, no person shall be entitled to make entry of desert lands unless he be a resident citizen of the state in which the land sought to be entered is located. An applicant's conditional, future-oriented intention to reside in the state is insufficient to qualify.

APPEARANCES: Alton and VaLois Hadlock, pro se.

OPINION BY ADMINISTRATIVE JUDGE LEWIS

Alton and VaLois Hadlock appeal from separate decisions dated March 16, 1977, 1/ of the Idaho State Office, Bureau of Land Management (BLM), rejecting their individual Desert Land Entry applications for lands located in T. 6 S., R. 8 E., Boise Meridian, Idaho. The appellants stated on their applications that they were bona fide residents of Utah. The BLM rejected the applications on the basis of 43 U.S.C. § 325 2/ which provides: "Excepting in the State of Nevada, no person shall be entitled to make entry of desert lands unless he be a resident citizen of the State or Territory in which the land sought to be entered is located."

In their statement of reasons, appellants say that they had intended to establish residence in Idaho on January 1, 1977, but postponed their move because the BLM had suspended processing Carey Act applications pending the adoption of new regulations.

1/ The appeals have been consolidated for decision.

2/ Act of March 3, 1891, 26 Stat. 1096 (1970).

The Carey Act as amended, 43 U.S.C. § 641 et seq. (1970), authorizes grants of desert lands to states, and it is true that the regulations pertaining thereto were deleted from Title 43 of the Code of Federal Regulations in 1970. 35 F.R. 3072 (1970). However, the pertinent statutes for purposes of this appeal are 43 U.S.C. § 321, authorizing entry rights for individual persons, and 43 U.S.C. § 325, supra, setting forth residency requirements. The regulations implementing these laws (43 CFR Part 2520) are in force and effect.

[1] Appellants concede that they are not citizens of Idaho. Under 43 U.S.C. § 325, supra, their conditional, future-oriented intention to reside is insufficient to qualify them for filing Desert Land Entry Applications in that state. See Wallace S. Bingham, 21 IBLA 266, 82 I.D. 377 (1975).

Therefore, pursuant to the authority delegated to the Board of Land Appeals by the Secretary of the Interior, 43 CFR 4.1, the decisions appealed from are affirmed.

Anne Poindexter Lewis
Administrative Judge

We concur:

Edward W. Stuebing
Administrative Judge

Douglas E. Henriques
Administrative Judge

